

109TH CONGRESS
1ST SESSION

S. 918

To provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2005

Mr. OBAMA (for himself, Mr. TALENT, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “E–85 Fuel Utilization and Infrastructure Development
6 Incentives Act of 2005”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this division an

1 amendment or repeal is expressed in terms of an amend-
 2 ment to, or repeal of, a section or other provision, the ref-
 3 erence shall be considered to be made to a section or other
 4 provision of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Purpose.

Sec. 3. Findings.

Sec. 4. Incentives for the installation of alternative fuel refueling stations.

Sec. 5. Incentives for the retail sale of alternative fuels as motor vehicle fuel.

7 **SEC. 2. PURPOSE.**

8 The purpose of this Act is to decrease the dependence
 9 of the United States on foreign oil by increasing the use
 10 of high ratio blends of gasoline with a minimum 85 per-
 11 cent domestically derived ethanol content (E–85) as an al-
 12 ternative fuel and providing greater access to this fuel for
 13 American motorists.

14 **SEC. 3. FINDINGS.**

15 Congress finds the following:

16 (1) The growing United States reliance on for-
 17 eign produced petroleum and the recent escalation of
 18 crude oil prices demands that all prudent measures
 19 be undertaken to increase United States refining ca-
 20 pacity, domestic oil production, and expanded utili-
 21 zation of alternative forms of transportation fuels
 22 and infrastructure.

1 (2) Recent studies confirm the environmental
2 and overall energy security benefits of high ratio
3 blends of gasoline with a minimum 85 percent do-
4 mestically derived ethanol content (E-85), especially
5 with regard to the reduction of greenhouse gas emis-
6 sions from the national on-road passenger car vehi-
7 cle fleet.

8 (3) The market penetration of E-85 capable
9 Flexible Fuel Vehicles (FFVs) now exceeds
10 5,000,000 with an additional 1,000,000 or more
11 FFVs expected to be added annually as automakers
12 continue to respond positively to congressionally pro-
13 vided production incentives.

14 (4) It is further recognized that actual imple-
15 mentation of the use of E-85 fuel has been signifi-
16 cantly underutilized due primarily to the lack of E-
17 85 refueling infrastructure availability and pro-
18 motion and that such utilization rate will continue to
19 lag unless resources are provided to substantially ac-
20 celerate national refueling infrastructure develop-
21 ment.

22 (5) Additionally, incentives in the form of tax
23 credits can serve to stimulate infrastructure develop-
24 ment and E-85 fuel utilization.

1 **SEC. 4. INCENTIVES FOR THE INSTALLATION OF ALTER-**
 2 **NATIVE FUEL REFUELING STATIONS.**

3 (a) IN GENERAL.—Subpart B of part IV of sub-
 4 chapter A of chapter 1 (relating to foreign tax credit, etc.)
 5 is amended by adding at the end the following new section:

6 **“SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
 7 **ERTY CREDIT.**

8 “(a) CREDIT ALLOWED.—There shall be allowed as
 9 a credit against the tax imposed by this chapter for the
 10 taxable year an amount equal to 50 percent of the amount
 11 paid or incurred by the taxpayer during the taxable year
 12 for the installation of qualified alternative fuel vehicle re-
 13 fueling property.

14 “(b) LIMITATION.—

15 “(1) IN GENERAL.—The credit allowed under
 16 subsection (a)—

17 “(A) with respect to any retail alternative
 18 fuel vehicle refueling property, shall not exceed
 19 \$30,000, and

20 “(B) with respect to any residential alter-
 21 native fuel vehicle refueling property, shall not
 22 exceed \$1,000.

23 “(2) PHASEOUT.—

24 “(A) IN GENERAL.—In the case of any
 25 qualified alternative fuel vehicle refueling prop-
 26 erty placed in service after December 31, 2010,

1 the limit otherwise applicable under paragraph
2 (1) shall be reduced by—

3 “(i) 25 percent in the case of any al-
4 ternative fuel vehicle refueling property
5 placed in service in calendar year 2011,
6 and

7 “(ii) 50 percent in the case of any al-
8 ternative fuel vehicle refueling property
9 placed in service in calendar year 2012.

10 “(c) YEAR CREDIT ALLOWED.—The credit allowed
11 under subsection (a) shall be allowed in the taxable year
12 in which the qualified alternative fuel vehicle refueling
13 property is placed in service by the taxpayer.

14 “(d) DEFINITIONS.—For purposes of this section—

15 “(1) QUALIFIED ALTERNATIVE FUEL VEHICLE
16 REFUELING PROPERTY.—The term ‘qualified alter-
17 native fuel vehicle refueling property’ has the same
18 meaning given for clean-fuel vehicle refueling prop-
19 erty by section 179A(d), but only with respect to
20 any fuel at least 85 percent of the volume of which
21 consists of ethanol.

22 “(2) RESIDENTIAL ALTERNATIVE FUEL VEHI-
23 CLE REFUELING PROPERTY.—The term ‘residential
24 alternative fuel vehicle refueling property’ means
25 qualified alternative fuel vehicle refueling property

1 which is installed on property which is used as the
 2 principal residence (within the meaning of section
 3 121) of the taxpayer.

4 “(3) RETAIL ALTERNATIVE FUEL VEHICLE RE-
 5 FUELING PROPERTY.—The term ‘retail alternative
 6 fuel vehicle refueling property’ means qualified alter-
 7 native fuel vehicle refueling property which is in-
 8 stalled on property (other than property described in
 9 paragraph (2)) used in a trade or business of the
 10 taxpayer.

11 “(e) APPLICATION WITH OTHER CREDITS.—The
 12 credit allowed under subsection (a) for any taxable year
 13 shall not exceed the excess (if any) of—

14 “(1) the regular tax for the taxable year re-
 15 duced by the sum of the credits allowable under sub-
 16 part A and sections 27, 29, and 30, over

17 “(2) the tentative minimum tax for the taxable
 18 year.

19 “(f) BASIS REDUCTION.—For purposes of this title,
 20 the basis of any property shall be reduced by the portion
 21 of the cost of such property taken into account under sub-
 22 section (a).

23 “(g) NO DOUBLE BENEFIT.—No deduction shall be
 24 allowed under section 179A with respect to any property

1 with respect to which a credit is allowed under subsection
2 (a).

3 “(h) REFUELING PROPERTY INSTALLED FOR TAX-
4 EXEMPT ENTITIES.—In the case of qualified alternative
5 fuel vehicle refueling property installed on property owned
6 or used by an entity exempt from tax under this chapter,
7 the person which installs such refueling property for the
8 entity shall be treated as the taxpayer with respect to the
9 refueling property for purposes of this section (and such
10 refueling property shall be treated as retail alternative fuel
11 vehicle refueling property) and the credit shall be allowed
12 to such person, but only if the person clearly discloses to
13 the entity in any installation contract the specific amount
14 of the credit allowable under this section.

15 “(i) CARRYFORWARD ALLOWED.—

16 “(1) IN GENERAL.—If the credit amount allow-
17 able under subsection (a) for a taxable year exceeds
18 the amount of the limitation under subsection (e) for
19 such taxable year (referred to as the ‘unused credit
20 year’ in this subsection), such excess shall be allowed
21 as a credit carryforward for each of the 20 taxable
22 years following the unused credit year.

23 “(2) RULES.—Rules similar to the rules of sec-
24 tion 39 shall apply with respect to the credit
25 carryforward under paragraph (1).

1 “(j) SPECIAL RULES.—Rules similar to the rules of
2 paragraphs (4) and (5) of section 179A(e) shall apply.

3 “(k) REGULATIONS.—The Secretary shall prescribe
4 such regulations as necessary to carry out the provisions
5 of this section.

6 “(l) TERMINATION.—This section shall not apply to
7 any property placed in service after December 31, 2013.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 1016(a) is amended by striking
10 “and” at the end of paragraph (30), by striking the
11 period at the end of paragraph (31) and inserting “,
12 and”, and by adding at the end the following new
13 paragraph:

14 “(32) to the extent provided in section
15 30B(f).”.

16 (2) Section 55(c)(2) is amended by inserting
17 “30B(e),” after “30(b)(3),”.

18 (3) The table of sections for subpart B of part
19 IV of subchapter A of chapter 1 is amended by in-
20 serting after the item relating to section 30A the fol-
21 lowing new item:

“Sec. 30B. Alternative fuel vehicle refueling property credit.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 the date of the enactment of this Act, in taxable years
25 ending after such date.

1 **SEC. 5. INCENTIVES FOR THE RETAIL SALE OF ALTER-**
 2 **NATIVE FUELS AS MOTOR VEHICLE FUEL.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 (relating to business related cred-
 5 its) is amended by inserting after section 40A the fol-
 6 lowing new section:

7 **“SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
 8 **FUELS AS MOTOR VEHICLE FUEL.**

9 “(a) GENERAL RULE.—The alternative fuel retail
 10 sales credit for any taxable year is 35 cents for each gallon
 11 of alternative fuel sold at retail by the taxpayer during
 12 such year.

13 “(b) DEFINITIONS.—For purposes of this section—
 14 “(1) ALTERNATIVE FUEL.—The term ‘alter-
 15 native fuel’ means any fuel at least 85 percent of the
 16 volume of which consists of ethanol.

17 “(2) SOLD AT RETAIL.—

18 “(A) IN GENERAL.—The term ‘sold at re-
 19 tail’ means the sale, for a purpose other than
 20 resale, after manufacture, production, or impor-
 21 tation.

22 “(B) USE TREATED AS SALE.—If any per-
 23 son uses alternative fuel (including any use
 24 after importation) as a fuel to propel any quali-
 25 fied alternative fuel motor vehicle (as defined in
 26 this section) before such fuel is sold at retail,

1 then such use shall be treated in the same man-
2 ner as if such fuel were sold at retail as a fuel
3 to propel such a vehicle by such person.

4 “(3) QUALIFIED ALTERNATIVE FUEL MOTOR
5 VEHICLE.—The term ‘new qualified alternative fuel
6 motor vehicle’ means any motor vehicle—

7 “(A) which is capable of operating on an
8 alternative fuel,

9 “(B) the original use of which commences
10 with the taxpayer,

11 “(C) which is acquired by the taxpayer for
12 use or lease, but not for resale, and

13 “(D) which is made by a manufacturer.

14 “(c) ELECTION TO PASS CREDIT.—A person which
15 sells alternative fuel at retail may elect to pass the credit
16 allowable under this section to the purchaser of such fuel
17 or, in the event the purchaser is a tax-exempt entity or
18 otherwise declines to accept such credit, to the person
19 which supplied such fuel, under rules established by the
20 Secretary.

21 “(d) PASS-THRU IN THE CASE OF ESTATES AND
22 TRUSTS.—Under regulations prescribed by the Secretary,
23 rules similar to the rules of subsection (d) of section 52
24 shall apply.

1 “(e) TERMINATION.—This section shall not apply to
2 any fuel sold at retail after December 31, 2010.”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
4 tion 38(b) (relating to current year business credit) is
5 amended by striking “plus” at the end of paragraph (18),
6 by striking the period at the end of paragraph (19) and
7 inserting “, plus”, and by adding at the end the following
8 new paragraph:

9 “(20) the alternative fuel retail sales credit de-
10 termined under section 40B(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 is amended by inserting after the item relating to section
14 40A the following new item:

“Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to fuel sold at retail after the date
17 of the enactment of this Act, in taxable years ending after
18 such date.

